Appendix 7.C – Supplemental Information about School Bus Restrictions

As introduced in Chapter 7 of this manual, the use of FTA-funded vehicles and facilities to provide school transportation is prohibited by FTA's School Bus Operations regulations, 49 CFR Part 605, with certain exceptions. These specific circumstances are summarized below. For additional guidance, subrecipients should contact MTA and refer to 49 CF Part 605: http://www.ecfr.gov/cgi-bin/text-idx?tpl=/ecfrbrowse/Title49/49cfr605_main_02.tpl, as well as FTA's policy statement at: https://www.transit.dot.gov/regulations-guidance/rulemaking/E8-21601.

Allowable Exemptions

FTA subrecipients are prohibited from providing exclusive school bus service unless it qualifies under specified exemptions in 49 CFR Part 605:

- The subrecipient operates a school system in an urban area and also operates a separate school bus program for that school system.
- An FTA subrecipient in an urban area may provide transportation that is exclusive to students and school personnel if private school bus operators in the urban area are unable to provide adequate transportation at a reasonable rate and in conformance with applicable safety standards, with prior approval from the FTA Administrator following required outreach to private operators or certification that none operate in the subrecipient's area. However, buses, facilities, or equipment purchased with FTA assistance cannot be used to provide this service; a subrecipient may use only buses, facilities, and equipment that have been purchased exclusively with non-FTA funds to transport students and school personnel to and from school or school-sponsored activities.

  FTA subrecipients wishing to engage in the provision of school transportation under these circumstances must conduct outreach to private school bus companies as detailed in 49 CFR Part 605, Section 605.16. Documentation of this outreach must be submitted as part of the grant application to the MTA as part of the public comment period for the application (described in Chapter 2 of this manual).

  Approval from the FTA Administrator is required before an FTA subrecipient may operate school bus transportation. The FTA Administrator will consider any comments filed by private school bus operators before making any findings regarding the applicant's proposed or existing school bus operators.

Prohibition against Use of FTA-Funded Equipment and Facilities for Exclusive School Bus Transportation

In no case can Federally-funded equipment or facilities be used for exclusive school service. This includes transportation to or from any before- or after-school activities, field trips, or other school-sponsored activities. However, an FTA subrecipient may use buses, facilities, and equipment for the transportation of school students, personnel and equipment for incidental charter bus operations (e.g., field trips), if one or more of the charter bus service exceptions (described in the preceding section) apply.

Tripper Service

One permissible use of public transportation vehicles for school-*focused* service involves "tripper service" – defined as regularly scheduled public transportation service that is open to the public and designed or modified to meet the travel needs of school students and personnel using various fare collection or subsidy systems. Buses used for tripper service must be marked as open to the general public; signage or any other indication that the bus may not be open to the general public is prohibited. Further, all stops made on tripper service must be accessible to the public and must be clearly marked as public stops (except in the case of traditionally unmarked flag stops).

School students may also be transported to school and related activities on ADA paratransit or other demand-responsive service as long as the student qualifies for the service and the service does not exclude the general public. Such service would be comparable to allowable "tripper service" using the fixed-route system.

Use of Privately Owned School Buses

FTA subrecipients are not prohibited from using privately-owned school buses to supplement the regular public transportation fleet. FTA has stated that working with private school bus operators to provide supplemental public transportation service can help communities make more efficient use of their resources while increasing mobility for community residents.

Complaints and Remedies

A private operator or other interested party can file a complaint with the FTA Administrator against an FTA subrecipient for failing to follow these regulations. If the FTA finds a violation, the FTA Administrator may determine a remedy that could include barring a recipient from receiving future funds.